IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.159 OF 2007**

Pankaj Omprakash Singh ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. N.V. Sawant, Advocate for the applicant
Ms. R.M. Gadhvi, APP for the State.

**CORAM : J.H. BHATIA, J.**

**DATE : 5TH FEBRUARY, 2007.**

P.C.

. Heard Mr. Sawant, learned Counsel for the applicant and Ms. Gadhvi, learned APP for the State. Perused the case papers. The applicant seeks to be released on bail in Crime No.I-172/2006, registered at Wagle Estate Police Station for the offences punishable under Sections 302, 307 and 120(B) r/w section 34 of Indian Penal Code.

2. The prosecution case, in brief, is that one Shayamsundar Khanna had got constructed some shop or galas from Vikas Zade. It appears that there was some dispute between them. On 21/5/2006 at about 10.30 P.M., Vikas Zade and some of his companions assaulted

Shyamsundar Khanna with sharp and cutting weapons. At the same time, his brotherin-law Pravin, who had just reached at the spot, and asked Vikas Zade as to why they were assaulting Shayamsunder. They also assaulted Pravin. Shayamsundar died on the spot because of multiple injuries and Pravin Khanna, who had suffered some injuries, was taken to the hospital and later on he also succumbed to the said injuries. As per the post mortem report Shayamsundar had suffer multiple injuries on the different parts of the body including Head, neck, both hands, abdomen etc. and he had died due to the multiple stab injuries and shock. Post mortem report of Pravin Khanna was also conducted on 23/6/2006 and it was found that he had died due to head injury with Haematoma with fracture of skull. The report of the incident was lodged by one Anil Dhavan. Initially, the culprits were defined as Vikas Zade and his companions. On 1/6/2006 Vikas Zade and his three companions including the present applicant came to be arrested. After that the statement of some witnesses were recorded and they disclosed that the present applicant was also one of the assailants along with Vikas Zade. It appears that initially due to fear some witnesses had not disclosed the names but later on the statements were disclosed.

According to the prosecution, the present applicant was arrested on the information received from the police informant and that was confirmed later on by the statements of some of the eye witnesses.

3. The learned Counsel for the applicant states that there is no material against the present applicant except the statement recorded after the arrest and therefore, much importance cannot be given to the same. He also points out that no recovery was made from the present applicant. Therefore, he prays for bail. The application of the present applicant was rejected by the Sessions Court.

4. Taking into the consideration in which initially Shayamsundar was attacked and thereafter Pravin intervened and he was also severely attacked and that both of them suffered multiple injuries, which could be caused by sharp cutting weapons and while Shayamsundar died on the spot and Pravin also died within a short time thereafter, merely because names of some of the accused were not disclosed immediately by the witnesses, it would not be proper to disbelieve the witnesses at this stage. Even in the F.I.R. it was mentioned that

Vikas Zade and his 10 to 15 companions armed with sharp and cutting weapons had attacked Shayamsundar and Pravin Khanna. Taking into consideration number of injuries suffered by them, it is clear that the injuries could not have been caused by single person and number of culprits must be there. There are number of eye witnesses who claimed to have seen the present applicant as one of the assailants. Therefore, in my opinion, when gruesome murder of two persons was committed it will not in the interest of justice to grant bail to the accused The applicant is native of Uttar Pradesh. If bail is granted to him, possibility cannot be ruled out that he may not be available for the trial.

5. For the aforesaid reasons, the application stands rejected.

**(J.H. BHATIA, J.)**